

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

**BRENDA GLOVER, on behalf
of herself and all others similarly
situated,**

PLAINTIFF

v.

CASE NO. 4:14-cv-644-JLH

**HOUSING AUTHORITY OF THE
CITY OF LITTLE ROCK, d/b/a
METROPOLITAN HOUSING
ALLIANCE, and RODNEY FORTE,
Executive Director of Metropolitan
Housing Alliance, in his Official Capacity,**

DEFENDANTS

**PLAINTIFF’S REPLY IN SUPPORT OF
MOTION FOR CLASS CERTIFICATION**

The Court should grant Plaintiff’s Motion for Class Certification. In opposition, Defendants Metropolitan Housing Alliance and Rodney Forte (“Defendants”) submit a Joint Response to Plaintiff’s Motion for Class Certification (“Response” or “Resp.”) that consists almost entirely of legal and factual challenges to the underlying merits of Plaintiff’s claims. Indeed, Defendants’ only contentions relating to the relevant considerations under Fed. R. Civ. P. 23(a) and (b)(2) are made in passing, in the Response’s introduction and conclusion. Specifically, Defendants assert—with no accompanying argument or analysis—that *even if* Plaintiff’s claims entitled her to relief, her claims are not typical of the proposed Class. Resp. at 2, 13. The rest of the Response is devoted to rebutting the causes of action in Plaintiff’s Complaint.

This improperly confuses the analysis required for class certification with that required at the summary judgment stage of litigation. “While disputes about Rule 23 criteria may overlap

with questions going to the merits of the case, the district court should not resolve the merits of the case at class certification.” *Cox v. Zurn Pex, Inc. (In re Zurn Pex Plumbing Prods. Liab. Litig.)*, 644 F.3d 604, 617 (8th Cir. 2011); *Karsjens v. Jesson*, 283 F.R.D. 514, 517 (D. Minn. 2012) (“When considering a motion for class certification, a court need not ask “whether the plaintiff or plaintiffs have stated a cause of action or will ultimately prevail on the merits, but rather whether the requirements of Rule 23 are met.”) (citations omitted); *Haney v. Recall Ctr.*, 282 F.R.D. 436, 438 (W.D. Ark. 2012) (“class certification is a procedural determination and should not include an inquiry into the merits of the plaintiffs’ claims.”) (citing *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 177-178 (1974)).

The merits arguments raised by Defendants are properly addressed in the future, at summary judgment. *Zurn*, 644 F.3d at 617. Further, Defendants’ mere assertion, without further analysis or argument, that Plaintiff’s claims are not typical of the proposed Class fails to rebut the argument laid out in the Memorandum of Law in Support of Plaintiff’s Motion for Class Certification. ECF No, 19 at 19-20. Accordingly, the Court should grant Plaintiff’s Motion for Class Certification.

Dated: January 19, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2016, I caused a copy of the foregoing to be electronically filed with the Clerk of Court using CM/ECF, which will send electronic notification to the parties and registered attorneys of record that the document has been filed and is available for viewing and downloading.

/s/ Hank Bates